

SENT TO COUNCIL ON

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Memorandum  
by Council Member's Office

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Leslye Corsiglia  
Scott P. Johnson

**SUBJECT:** SEE BELOW

**DATE:** February 23, 2005

Approved

Date

2.24.05

**COUNCIL DISTRICT:** Citywide

### INFORMATION

**SUBJECT: REPORT ON ACTIVITIES UNDERTAKEN BY THE DIRECTOR OF HOUSING AND THE DIRECTOR OF FINANCE UNDER THE DIRECTORS' DELEGATION OF AUTHORITY FOR THE PERIOD OF OCTOBER 1, 2004 THROUGH DECEMBER 31, 2004**

### BACKGROUND

On September 4, 1990, the City Council adopted Ordinance No. 23589, which delegated to the Director of Housing certain specified authorities in the administration of the City's comprehensive affordable housing program (the "Delegation of Authority"). On May 23, 2000, the Delegation of Authority was amended by Ordinance No. 26127 to clarify certain sections and add several other provisions. On June 25, 2002, the Delegation of Authority was further amended by Ordinance No. 26657 to add several provisions delegating additional authority to the Directors of Housing and Finance and to the City Manager. Subsequently, the City Manager delegated to the Director of Housing the Contract Authority granted to the City Manager.

The Delegation of Authority is codified in Chapter 5.06 of the Municipal Code. This memorandum reports on activities undertaken pursuant to the Administration's delegated authority for the period of October 1, 2004 through December 31, 2004.

### ANALYSIS

The Delegation of Authority Ordinance authorizes the Director of Housing: to develop and implement additional guidelines for housing programs; to adjust terms on housing loans and grants; to change the funding sources of a loan; to convert loans to grants; to loan or grant Housing and Homeless funds, Predevelopment funds and Housing Rehabilitation Program funds; to negotiate and execute grant agreements necessary to implement Council-approved programs adopted in the Annual Action Plan of the Consolidated Plan; to provide management for, and/or

dispose of, properties acquired through direct purchase, foreclosure or deed-in-lieu proceedings; to formalize the City Council's policies and procedures regarding housing loan defaults; to apply for federal or State funding; and to make other technical changes under the Director of Housing's Delegation of Authority. Ordinance No. 26657 further broadened the Director of Housing's authority to make adjustments, within defined parameters, to loans and grants previously approved by the City Council; to delegate jointly to the Director of Housing and Director of Finance authority related to the City's issuance of tax-exempt, private-activity bonds to finance the development of affordable housing projects; to delegate to the Director of Finance the authority to hold Tax Equity and Fiscal Responsibility Act (TEFRA) hearings on the City's proposed issuance of tax-exempt bonds to finance affordable housing projects and the authority to determine, within defined parameters, various terms and conditions of loans and grants previously approved by the City Council.

### **ACTIONS TAKEN BY THE DIRECTOR OF HOUSING**

Under the parameters of the Delegation of Authority, the Director of Housing has taken the following actions during the period of October 1, 2004 through December 31, 2004:

#### **Housing Trust Fund Grants:**

None this period.

#### **Housing Rehabilitation and Improvement Loans and Grants Approved:**

<b><u>ACTIVITY</u></b>	<b><u>NUMBER</u></b>	<b><u>AMOUNT</u></b>
REHABILITATION LOANS	5	\$132,826
REHABILITATION GRANTS	42	\$610,764
PAINT GRANTS	0	\$ -0-----
<b>TOTAL:</b>		<b>\$743,590</b>

#### **Modifications to Council-Approved Loan Terms & Condition**

Poco Way Project – Council District: 5, SNI: N/A:

On December 14, 2004 the City Council approved a new loan in the amount of \$709,000 to Poco Way Associates, a California Limited Partnership for the rehabilitation of the Poco Way project. The staff report approved by the City Council contained a requirement that the Housing

Authority of the County of Santa Clara (HACSC) provide a Completion Guaranty in favor of the City and Citibank, the primary lender. The HACSC requested that the Completion Guaranty in favor of Citibank satisfy the City's requirement. On December 20, 2004 the Director of Housing approved the following recommendations:

- Waive the City's requirement that the HACSC obtain a Completion Guaranty in favor of the City for the Poco Way project, as the Guaranty in favor of Citibank is adequate to ensure project completion.
- Reaffirm the maturity date of the City loan as June 1, 2036 pursuant to the requirement of Citibank's loan.

### **Loans/Grants Terms and Conditions:**

#### **Delmas Park Apartments – District: 3 – SNF: Delmas Park/University**

On June 29, 2004, the City Council approved the construction and permanent loan to (i) Delmas Park Associates, L.P. for the Delmas Park Apartments project in the amount of up to \$7,020,693 during construction and up to \$7,196,210 at permanent and to (ii) EHC Delmas Park, LLC, an assignee of Core Development, Inc., in the amount of up to \$185,912 in accordance with the City Council approved commitment of funds on June 29, 2004. On October 8, 2004 the Director of Housing approved the City Loan Terms and the specific business terms for the construction and the permanent loans as evidenced by the Term Sheets dated October 8, 2004 in accordance with the City Council approved commitment of funds. On October 8, 2004, the Director of Housing approved the following recommendations:

<b>LOAN TO PARTNERSHIP</b>	<b>construction loan</b>	<b>permanent loan</b>
Loan Amount:	\$7,020,693	\$7,196,210
Interest Rate	1.25% Simple	3% for 15 years; then 5% thereafter
Loan Term	36 Months	486 Months
Repayment	P&I at Maturity	Residual Receipts 50%/50%
Total Affordable Units	123 Extremely Low, Low and Very Low Units	123 Extremely Low, Low and Very Low Units
Affordability Term	55 Years	55 years

<b>LOAN TO THE LLC</b>	<b>construction loan</b>
Loan Amount:	\$185,912
Interest Rate	1.25% Simple
Loan Term	36 Months
Repayment	P&I at Maturity
Total Affordable Units	123 Extremely Low, Low and Very Low Units
Affordability Term	55 Years

- Increase the City loan to Delmas Park Associates, L.P. by \$175,517 to pay the City loan interest during construction.
- Assumption and assignment of the existing \$2,800,000 ELI grant to EHC Delmas Park, LLC, by Teachers Academy Foundation. This assumption to a new entity is necessary to preserve certain tax credits that will be beneficial to the project.
- Allow \$1,000 as a permitted expense from the Cash Flow to pay EHC Delmas Park, the ground lessor, for administration fees.

Vintage Tower Apartments - District: 3 – SNI: N/A

On April 27, 2004 the City Council approved a loan of up to \$2,225,000 to First United Methodist Church Tower Properties, Inc., a California nonprofit corporation for the Vintage Tower Apartments project. The loan was documented and executed on June 1, 2004. On October 18, 2004 the Director of Housing approved modifications to the City loan documents. Such modifications were made to the Loan Agreement and the Promissory Note regarding the capital contributions, consent to substitution of the General Partner, defaults described in the deed of trust not cured within the notice and cure periods, written notices to the partnership, repayment date of the church note, permitted expenses, and disbursements, which Borrower shall pay during a twelve-month period because of or in connection with the ownership, operation, maintenance, management, repair and/or restoration of the project.

All other terms and conditions remain as approved by the City Council.

**PREDEVELOPMENT LOANS:**

None this period.

**TEFRA HEARINGS CONDUCTED BY THE DIRECTOR OF FINANCE**

The City caused to be published on October 1, 2004 in the San Jose Post Record, a newspaper of general circulation in the City, a notice of a public hearing to be held on October 18, 2004, at 2:30 p.m. concerning the issuance of the Tax Exempt Bonds, all in accordance with the requirements of Section 147(f) of the Code.

The Director of Finance held a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing on October 18, 2004 with respect to the intent to issue multifamily housing revenue bonds for the Raintree Apartments Project in the amount of \$24,000,000, and the Redevelopment Agency of the City of San Jose's ("RDA") intent to issue tax-exempt merged area redevelopment project housing set-aside tax allocation bonds to refinance the following projects: Almaden Family Apartments, Brooks House, Cinnabar Commons Apartments, Delmas Park Apartments, Evans Lane Apartments, Fallen Leaves Apartments, Hacienda Villa Creek Apartments, Oak Tree Village Apartments, Paseo Senter I Apartments, Summer Crest Apartments, Turnleaf Apartments, Fairground Family Apartments and Fairgrounds Luxury Apartments projects, in the total aggregate amount not to exceed \$125,000,000. The hearing also provided for the inducement declaration for the purpose of allowing the expenditures incurred prior to the date of bond issuance to be reimbursed with tax-exempt bond proceeds for the Redevelopment Agency of the City of San Jose's ("RDA") tax-exempt merged area redevelopment project housing set-aside tax allocation bonds projects.

Project Name	Units	San Jose Location	Bond Amount	Mayor's Certificate No.
Raintree Apartments	174	1058 South Winchester Blvd., San Jose	\$24,000,000	No. 2004-7 Adopted
Redevelopment Agency of the City of San Jose ("RDA") tax-exempt tax allocation bonds	N/A	Various	Not to exceed \$125,000,000	No. 2004-8 Adopted

HONORABLE MAYOR AND CITY COUNCIL


February 23, 2005

**Subject: Report on Activities Undertaken by the Director of Housing and the Director of Finance**

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**COORDINATION:**

Preparation of this report has been coordinated with the City Attorney's Office.



SCOTT P. JOHNSON  
Director of Finance



LESLYE CORSIGIA  
Director of Housing